

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF:	)	
	)	
Town of Ingalls, Indiana	)	Administrative Order
	)	
Proceeding Under Section	)	EPA-5-01-113(a) IN-08
113(a)(3) of the Clean Air	)	
Act, 42 U.S.C. § 7413(a)(3)	)	
	)	
	)	

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Administrative Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Order to the Town of Ingalls, Indiana, (Ingalls/Respondent) c/o the Ingalls Town Council, under Section 113(a)(3) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(3).

Statutory and Regulatory Background

2. Under Section 608 of the Act, 42 U.S.C. § 7671g, the Administrator of U.S. EPA promulgated regulations at 40 C.F.R. Part 82, Subpart F, §§ 82.150 through 82.166, establishing standards and requirements regarding the disposal of refrigerant-containing appliances.

3. 40 C.F.R. § 82.150(b) states that this subpart applies to any person servicing, maintaining, repairing, or disposing of appliances.

4. 40 C.F.R. § 82.152 defines "appliance" as any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

5. 40 C.F.R. § 82.152 defines "disposal" as the process leading to and including: 1) The discharge, deposit, dumping or placing of any discarded appliance into or on any land or water; 2) The disassembly of any appliance for discharge, deposit,

dumping or placing of its discarded component parts into or on any land or water; or 3) The disassembly of any appliance for reuse of its component parts.

6. 40 C.F.R. § 82.152 defines "small appliance" as any of the following products that are fully manufactured, charged, and hermetically sealed in a factory with five (5) pounds or less of refrigerant: refrigerators and freezers designed for home use, room air conditioners (including window air conditioners and packaged terminal air conditioners), packaged terminal heat pumps, dehumidifiers, under-the-counter ice makers, vending machines, and drinking water coolers.

7. 40 C.F.R. § 82.154(a) states that no person maintaining, servicing, repairing, or disposing of appliances may knowingly vent or otherwise release into the environment any class I or class II substance used as refrigerant in such equipment.

8. 40 C.F.R. § 82.156(f) states that persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance must either: 1) Recover any remaining refrigerant from the appliance in accordance with paragraph (h) of this section; or 2) Verify that the refrigerant has been evacuated from the appliance or shipment of appliances previously. Such verification must include a signed statement from the person from whom the appliance or shipment of appliances is obtained that all refrigerant that had not leaked previously has been recovered from the appliance in accordance with paragraph (h) of this section. This statement must include the name and address of the person who recovered the refrigerant and the date the refrigerant was recovered or a contract that refrigerant will be removed prior to delivery.

9. 40 C.F.R. § 82.166(i) states that persons disposing of small appliances must maintain copies of signed statements obtained pursuant to 40 C.F.R. § 82.156(f)(2).

10. Under Section 113(a)(3)(B) of the Act, 42 U.S.C. § 7413(a)(3)(B), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating the recycling and emissions reduction regulations. The Administrator has delegated this authority to the Director of the

Air and Radiation Division.

**Findings**

11. Ingalls is a "person" as that term is defined in the Act, 42 U.S.C. § 7602(e).

12. Ingalls held a Cleanup Day, sponsored by the Ingalls Town Council, during the summer of 2000 in Ingalls, Indiana, when appliances, including small appliances, were collected for disposal.

13. While participating in the Ingalls Cleanup Day, Town Council member Patrick V. Fox cut the refrigerant lines of at least six (6) small appliances and knowingly vented the refrigerant from those small appliances.

14. In connection with the Ingalls Cleanup Day, Town Council member Patrick V. Fox took 10 small appliances, including 6 small appliances on which the lines were already cut and the refrigerant vented, for disposal and/or recovery to Fortunes Heating & A/C in Russiaville, Indiana.

15. In connection with the Ingalls Cleanup Day, Town Council member Patrick V. Fox also took small appliances for disposal to Gardners Salvage.

16. As a result of the improper venting of refrigerant and disposal of small appliances that occurred during the 2000 Ingalls Cleanup Day, Ingalls violated the regulations at 40 C.F.R. Part 82, Subpart F as follows:

a. Ingalls knowingly vented a class I or class II substance used as refrigerant from appliances in violation of 40 C.F.R. § 82.154(a); and

b. When disposing of the appliances, Ingalls failed to provide verification statements in violation of 40 C.F.R. § 82.156(f).

17. On the basis of these facts, U.S. EPA finds that Respondent is in violation of Section 608 of the Act, 42 U.S.C. § 7671g, and the implementing regulations at 40 C.F.R. Part 82,

Subpart F.

**IT IS HEREBY ORDERED THAT:**

18. During future "Cleanup Days" or other events sponsored by the Town Council that involve any appliances containing a class I or class II substance used as a refrigerant, Ingalls shall maintain compliance with Section 608 of the Act, 42 U.S.C. § 7671g, and the recycling and emission reduction regulations at 40 C.F.R. Part 82, Subpart F. This shall include ensuring, in accordance with 40 C.F.R. Part 82, Subpart F, proper refrigerant recovery and/or disposal of any appliances containing a class I or class II substance used as a refrigerant.

19. Ingalls will provide U.S. EPA with a copy of all verification statements, pursuant to 40 C.F.R § 82.156(f)(2), for all appliances disposed of during the Ingalls Cleanup Day 2000 and for any subsequent Cleanup Days in Ingalls, Indiana. Copies of verification statements shall be sent to the address in paragraph 21.

20. Ingalls will provide U.S. EPA with notification prior to any future Cleanup Days or similar activities in Ingalls, Indiana, where appliances and small appliances will be collected for disposal. Notification shall be sent to the address in paragraph 21.

21. Ingalls shall submit a signed letter of intent to comply with this order, within 7 business days of receipt of this Administrative Order. Such notice shall be mailed to the address listed below:

Compliance Tracker - AE-17J  
U.S. Environmental Protection Agency, Region 5  
Attn: Lynne Suesse  
Air and Radiation Division  
77 West Jackson Boulevard  
Chicago, Illinois 60604

22. Failure to comply with the terms of this Administrative Order may subject Respondent to civil penalties and/or further enforcement action under Section 113 of the Act, 42 U.S.C. § 7413.

23. Any information submitted in response to this request may be used by U.S. EPA in support of an administrative, civil, or criminal action against Respondent. Knowing submittal of false information to U.S. EPA, in response to this request, may be actionable under Section 113(c)(2) of the Act, as well as 18 U.S.C. § 1341.

24. Nothing contained in this Compliance Order shall affect the responsibility of Respondent to comply with all applicable Federal, State or local laws or regulations, including other applicable provisions of 40 C.F.R. Part 82.


25. Nothing in this Compliance Order shall be construed to prevent or limit U.S. EPA's authority to collect penalties and pursue appropriate relief under Sections 113(b) and 113(d) of the Act, 42 U.S.C. §§ 7413(b) and 7413(d).

26. This Compliance Order is not subject to the Paperwork Reduction Act, because it seeks collection of information in an administrative action, or investigation involving U.S. EPA and specific individuals or entities.

27. Section 113(a)(4) of the Act, 42 U.S.C. § 7413(a)(4), states that an Order shall not take effect until the person to whom it is issued has had an opportunity to confer with U.S. EPA about the alleged violation. Therefore, U.S. EPA is giving Respondent an opportunity to confer with U.S. EPA concerning this Order. Respondent may schedule a conference with U.S. EPA by calling Lynne Suesse at (312)886-0250 or Cynthia A. King at (312) 886-6831 within five (5) days of Respondent's receipt of this Order.

28. The Compliance Order shall expire one year from the effective date, if Respondent has complied with all of its terms.

9-24-01  
Date

  
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Bharat Mathur, Director  
Air and Radiation Division

Enclosure

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent the Administrative  
Consent Order, U.S. EPA Order No. EPA-5-01-113(a)IN-08, by  
Certified Mail, Return Receipt Requested, to:

Town of Ingalls, Indiana  
c/o Ed Sterger, Jr., President  
Ingalls Town Council  
247 N. Meridian, P.O. Box 277  
Ingalls, Indiana 46048


I also certify that copies of the Administrative Order,  
EPA-5-01-113(a)IN-08 was sent by First Class Mail to:

Mr. David McIver, Chief  
Air Section  
Office of Enforcement  
Indiana Department of Environmental Management  
100 North Senate, Room 1001  
Indianapolis, Indiana 46202-6015

and to:

Mr. Gary McKinney  
Anderson Office of Air Management  
120 East 8<sup>th</sup> Street, P.O. Box 2100  
Anderson, Indiana 46018

on the 24<sup>th</sup> day of September 2001.

  
Betty Williams, Secretary  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7099 34000000 9586 5102